

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DARRYL WILLIAM YOUNG,

Plaintiff,

v.

ROB MCKENNA, et al.,

Defendants.

CASE NO. C05-2053-MJP-MJB

ORDER OF TRANSFER

Petitioner Darryl Young, appearing *pro se*, has filed a petition for habeas corpus pursuant to 28 U.S.C. § 2254. He has previously filed one other § 2254 petition in this Court, which was dismissed with prejudice. See, Young v. State of Washington, C02-0010-BJR, Dkts. 17 & 18. Therefore this petition is a second or successive one under 28 U.S.C. §2254. This Court is without jurisdiction to consider such a petition until the Ninth Circuit Court of Appeals has authorized its filing. 28 U.S.C. § 2244(b)(3)(A); Ninth Circuit Rule 22-3. Accordingly, this case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals, pursuant to 28 U.S.C. § 1631 and Ninth Circuit Rule 22-3(a).

Petitioner is advised that this transfer does not of itself constitute compliance with § 2244(b)(3) and Ninth Circuit Rule 22-3; he must still file a motion for leave to proceed in the Court of Appeals and make the showing required by § 2244(b)(2). Petitioner is directed to consult this statute and Ninth Circuit Rule 22-3 for further information.

Should petitioner be granted leave by the Ninth Circuit Court of Appeals to proceed on his petition, his filing date for the purposes of the statute of limitations set forth in 28 U.S.C. § 2244(d) shall be the date of initial filing in this Court.

ORDER TRANSFERRING CASE - 1

1 The Clerk is directed to terminate this case and transfer all original documents to the Ninth Circuit
2 Court of Appeals. The Clerk shall, however, retain a copy of the petition and of this Order in the file.
3 The Clerk is further directed to send copies of this Order to petitioner, to counsel of record, if any, and to
4 Magistrate Judge Benton.

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6 DATED this 14th day of March, 2006.

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10 Marsha J. Pechman

11 U.S. District Judge
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14 Recommended for Entry
15 this 10th day of March, 2006.

16 /s/Monica J. Benton
17 MONICA J. BENTON
18 United States Magistrate Judge
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